

**THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

CASE NO. _____

JOSE MARTIN GUERRERO AVILA
Petitioner.

v.

MERRICK B. GARLAND, United
States Attorney General, Respondent.

On Appeal from the Executive Office of Immigration Review
Board of Immigration Appeals
File No. A 205-132-276

PETITION FOR REVIEW

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Attorney for Petitioner

PETITION FOR REVIEW

Petitioner Jose Martin Guerrero Avila (hereafter “Petitioner”) hereby petitions for review by this Court of the final order of removal entered by the Atlanta Immigration Court and the Board of Immigration Appeals (“BIA”) order dismissing his appeal issued May 17, 2023. There is currently no stay of removal in place. A copy of the BIA order is attached to this Petition as Exhibit A.

In support of this Petition, Petitioner states as follows:

1. On May 17, 2023, the BIA dismissed Petitioner’s appeal of the Atlanta immigration judge’s removal order entered on October 30, 2019.
2. Petitioner is eligible for Cancellation of Removal of Certain Non-Permanent Residents pursuant to 8 U.S.C. §1229(b)(1) as he has met his burden of proof on all elements, does in fact have qualifying relatives who would suffer exceptional and extremely unusual hardship and his application did merit a favorable exercise of discretion.
3. Petitioner submitted his application before the Attorney General and argued said claim and met his burden of proof by establishing his claim for Cancellation of Removal for Certain Non-Permanent Residents. The Board of Immigration Appeals erred in its interpretation of the statute and in the application of the facts of the case as to the statute and regulations.

4. To date, no court has upheld the validity of the BIA order dismissing the appeal.
5. Jurisdiction is asserted pursuant to 8 U.S.C. § 1252(a)(1) and (a)(2)(D).
6. Venue is asserted pursuant to 8 U.S.C. § 1252(b)(2) because the immigration judge completed proceedings in Atlanta, Georgia, within the jurisdiction of this judicial circuit.
7. This petition is timely filed pursuant to 8 U.S.C. § 1252(b)(1) as it is filed within 30 days of the BIA's Order dismissing the appeal and the order of removal becoming final.

Respectfully submitted this 15 day of June 2023.

/s/ Michael Urbina
Michael Urbina
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Attorney for Petitioner

**IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

JOSE MARTIN GUERRERO AVILA)

Petitioner,

v.

MERRICK B. GARLAND,

United States Attorney General,

Respondent.

Appeal No. _____

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EXHIBIT INDEX

Exhibit	Description
A	Board of Immigration Appeals Decision Dismissing Appeal entered on May 17, 2023

CERTIFICATE OF SERVICE

I hereby certify that on June 15, 2023, a copy of the foregoing Petition for Review and attached Exhibits were sent via electronic delivery to:

Merrick B. Garland,
U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530-0001

William Peachy, Director
Office of Immigration Litigation
Civil Division
U.S. Department of Justice
P.O. Box 878, Ben Franklin Station
Washington, DC 20044

Thomas Giles
Atlanta Field Office Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
180 Ted Turner Dr. SW Suite 522
Atlanta, GA, 30303

/s/ Michael Urbina
Michael Urbina
Attorney for Petitioner

EXHIBIT A



U.S. Department of Justice

Executive Office for Immigration Review

Board of Immigration Appeals

Office of the Clerk

5107 Leesburg Pike, Suite 2000
Falls Church, Virginia 22041

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DHS/ICE Office of Chief Counsel - ATL
180 Ted Turner Dr., SW, Ste 332
Atlanta GA 30303

Name: GUERRERO-AVILA, JOSE MART A 205-132-276

Date of this Notice: 5/17/2023

Enclosed is a copy of the Board's decision in the above-referenced case. This copy is being provided to you as a courtesy. Your attorney or representative has been served with this decision pursuant to 8 C.F.R. § 1292.5(a). If the attached decision orders that you be removed from the United States or affirms an Immigration Judge's decision ordering that you be removed, any petition for review of the attached decision must be filed with and received by the appropriate court of appeals within 30 days of the date of the decision.

Sincerely,

Donna Carr

Donna Carr
Chief Clerk

Enclosure

Userteam: Docket